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T-859 P.002/005 F-489

**NOV 15 2004**Application No. 09/559,320  
Declaration of Daniel J. McCabe under 37 CFR 1.132**IN THE U.S. PATENT AND TRADEMARK OFFICE**

<b>Application No.:</b> 09/559,320	<b>Confirmation No.</b> 1932
<b>Application of:</b> McCabe et al.	<b>Group Art Unit:</b> 3624
<b>Filing Date:</b> April 27, 2000	<b>Examiner:</b> Daniel Felten
<b>Title:</b> Derivative Securities Trading Product Utilizing Subsets of Indices or Portfolios	<b>Docket No.</b> B208 1010.1 <b>Customer No.</b> 26158

**DECLARATION OF DANIEL J. MCCABE UNDER 37 CFR 1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir or Madam:

I, Daniel J. McCabe, hereby declare that:

1. I am a citizen of the United States and reside at 11 Robin Ridge Road, Upper Saddle River, New Jersey NJ 07458.
2. I am a co-inventor of the above-identified application.
3. I am submitting this Declaration in support of a showing of Commercial Success of my invention.
4. In early September, 2004, my patent application was licensed for the purpose of creating a financial instrument that represents an ownership interest in a fund based on the NASDAQ-only portion of the S&P 500.
5. In accordance with the terms of that license, in mid-September, 2004, State Street Global Advisors launched an Exchange Traded Fund (ETF) named the 'SPDR O-Strip' which trades on

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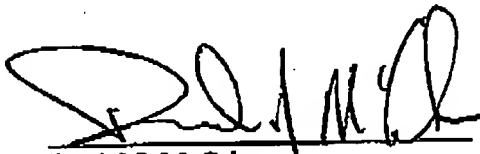
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the American Stock Exchange (AMEX) under the Symbol "OOO". Shares of this ETF represent an ownership interest in the Fund, which itself comprises stocks from the NASDAQ-only portion of the S&P 500. The weight of each stock in the SPDR O-Strip ETF is similar to its corresponding weight in the S&P 500, divided by the combined market cap weight of the NASDAQ-only portion of the S&P 500 within the S&P 500.

6. Attached in support of the foregoing are (1) a September 15, 2004 announcement from [www.businesswire.com](http://www.businesswire.com) regarding the launch of the SPDR O-Strip, (2) a September 27, 2004 online article from [www.streetauthority.com](http://www.streetauthority.com) about this ETF; and (3) information from State Street Global Advisors about the "SPDR O-Strip" showing, among other things, the market cap weight of the top ten holdings.

7. I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United Code, and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

  
Daniel J. McCabeDate: 11/12/04